IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE TWENTY NINETH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
**THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY**
**and**
**THE HON'BLE MR JUSTICE GHULAM MOHAMMED**

**WRIT PETITION NO : 10104 of 2004**

Between:

1 N.Linga Rao, S/o.N.Basava Punnaiah,
Chairman of N.V.R.Co-operative Sugars Ltd.
2 N.Naga Malleshwara Rao, s/o.Venkatappaiah,
N.V.R.Co-operative Sugars Ltd.
3 M.Basaveshwara Rao, S/o.Subba Rao,
N.V.R.Co-operative Sugars Ltd.
4 K.Hari Prasad, S/o.Venkateshwara Rao,
N.V.R.Co-operative Sugars Ltd.
5 B.Venkaiah, S/o. Ramanaiah,
N.V.R.Co-operative Sugars Ltd.
6 G.Satyanarayana, S/o.Tataiah,
N.V.R.Co-operative Sugars Ltd.
7 B.Basivi Reddy, S/o.Venkateshwara Reddy,
N.V.R.Co-operative Sugars Ltd.
8 M.Pullaiah, S/o.Andriah,
N.V.R.Co-operative Sugars Ltd.
9 B.Darjah Naik, S/o.Hanmath Naik,
N.V.R.Co-operative Sugars Ltd.
10 C.Subba Rao, S/o.Prasada Rao,
N.V.R.Co-operative Sugars Ltd.

All The petitioners are residents of Jampani,
Vemuru Mandal, Guntur District.

**..... PETITIONERS**

AND

1 The Government of Andhra Pradesh rep. by its Principal Secretary & Chairman, Implementation Secretariat, Public Enterprises Dept., A.P. Secretariat, Hyderabad
2 The Commissioner and Director of Sugar & Cane/Registrar of Co-operative Societies, A.P., Hyderabad.

3 The Managing Director, The N.V.R. Co-operative Sugars Limited, Jampani, Vemuru Mandal, Guntur District.

4 M/s Krebs Biochemicals Limited, having its registered office at 401 & 402, Cyber Heights, 4th Floor, Plot No. 13, Road No. 12, Banjara Hills, Hyderabad rep. by its Managing Director.
(Respondent No. 4 impleaded vide orders in W.P.M.P No. 13182 of 2004 dated 29.06.2004)

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus by declaring the action of the Respondents in issuing the proceedings in Rc.No.10392/2003/G4, dated 16-12-2003 which was gazetted in the official gazette on 31-12-2003 where under the assets of the society were sought to be transferred in favour of the
M/s. Krebs Bio Chemicals as arbitrary, illegal and non application of mind and contrary to the provisions of Section 12-A(6) of the A. P. Co-operative Societies Act, 1964, violative of principles of natural justice and legitimate expectation and consequentially direct the Respondents to refrain from interfering with the functioning and management of 3rd Respondent Sugar factory and to pass such other order or orders as this Court may deem fit and proper in the circumstances of the case..

**For the Petitioners: Mr. K.G.K.PRASAD, Advocate.**

**For Respondents Nos. 1 and 2: Advocate General**

**For Respondent No. 4: Mr. S. Niranjan Reddy, Advocate.**

**The Court made the following Order:**

There is no dispute whatsoever that the subject matter that arises for consideration in this writ petition is squarely covered by the judgment rendered by this Court in **G.V. Jayachandra Chowdary v. Government of A.P**[1]. This Court after an elaborate consideration of the matter disposed of the writ petitions in the following manner:

"In the result, we:

(a) uphold the constitutional validity of Section 12-A(1), (2) and (9) to (13) and explanations, except explanation (h), which defines the 'best offer';

(b) strike down explanation (h), which defines 'best offer', as unconstitutional being violative of Article 14 of the Constitution of India;

(c) do not find any constitutional infirmity in sub-sections (3) to (8) of Section 12-A of the Act, but the concept of 'best offer' as defined in explanation (h) runs through the said provisions and or so inextricably bound up those forming an integral part of the said sub-sections and, therefore, we find it difficult to apply the 'doctrine of severability' and save them. Therefore, sub-sections (3) to (8) are also struck down as unconstitutional being violative of Article 14 of the Constitution of India;

(d) uphold the decision of the Registrar taken under Section 12-A(1) of the Act alone; and

(e) other consequential decisions are declared void in view of striking down of explanation 'h' and as well as sub-sections (3) to (8) of Section 12-A of this Act".

Following the said judgment and the law declared by this Court, this writ petition is also disposed of in terms of the said judgment.

However, sri K.G.K. Prasad, learned counsel for the petitioners submitted that the respondents are bound to restore the petitioners who are the elected Members of the Managing Committee, back into their office and permit them to function as the Members of the Managing Committee. It is not for this Court to suggest as to in what manner the respondents are required to implement the judgment of this Court. Needless to observe that the respondents are bound to implement the judgment of this Court referred to hereinabove. For the present, we are not inclined to issue any further directions.

It shall always be open to the petitioners to avail the remedy

available to them in law, if the judgment of this Court is not implemented by the respondents.

(B. Sudershan Reddy, J)

29.6.004

(Ghulam Mohammed, J)

ks

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

TO

1 Principal Secretary & Chairman, Implementation Secretariat, Public Enterprises Dept., Government of Andhra Pradesh, A.P. Secretariat, Hyderabad
2 The Commissioner and Director of Sugar & Cane/Registrar of Co-operative Societies, A.P., Hyderabad.
3 The Managing Director, The N.V.R. Co-operative Sugars Limited, Jampani, Vemuru Mandal, Guntur District.
4 M/s Krebs Biochemicals Limited, having its registered office at 401 & 402, Cyber Heights, 4th Floor, Plot No. 13, Road No. 12, Banjara Hills, Hyderabad rep. by its Managing Director.
5 2 CCs to the Advocate General, High Court Buildings, High Court of Andhra Pradesh, Hyderabad (OUT).
6 2 CD copies.

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[1] 2004 (3) ALD 474 (DB)